IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 703 OF 1998

1. Mangala Ramesh Tathed
2. Sau. Lata. S. Bagmar ..Appellants

versus

1. Union of India
2. Kachardas D. Bhafana
3. Ashok K. Bhafana
4. Pradip K. Bhafana ..Respondents

None for the Appellants.

Mr. A. N. Samant for the Respondent No.1.

Ms. Sonia Bankapur for Respondent Nos. 2 to 4.

CORAM : D. G. DESHPANDE,J.

DATE : 1ST FEBRUARY,2005

ORAL ORDER :

1. The appellants were the legal heirs of the victim of an accident. Respondent Nos. 2, 3 and 4 are some of the legal representatives who were the original claimants. Advocate Ms. Sonia Bankapur, originally appeared for respondent Nos. 2 to 4 i.e. some of the claimants, but nobody appeared for the appellants - some of the claimants, Since Ms. Sonia Bankapur was appearing for some of the claimants who

were joined as respondents in this appeal, as the respondent Nos. 2 to 4 were not available according to her statement at the time of filing of the appeal, she was permitted to argue the appeal on behalf of the appellants - claimants and respondents - claimants.

2. One Shantabai Bafana was crossing railway line and she came to be crushed under the Shatabdi Express and died on the spot and at that time she had a second class ticket with her. In this background the claim petition was filed by legal heirs and it came to be dismissed on the ground that accident does not come under Section 124 of the Indian Railways Act.

3. I do not find any merit in this appeal because admittedly crossing railway line is not permitted. The accident did not took place because of the negligence of the railways, nor it took place between two Rly. vehicles, nor it took place while passenger was travelling in train. Therefore judgment is proper, no interference is called for. Appeal is dismissed. No order as to costs.

1.02.2005 (D.G. DESHPANDE, J.)